



Comcast Corporation
300 New Jersey Avenue, NW
Suite 700
Washington, DC 20001

December 7, 2010

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: *Preserving the Open Internet*, GN Docket No. 09-191

Dear Ms. Dortch:

On Friday, December 3, Level 3 made a new ex parte filing with the Commission, reiterating the myth that Comcast is solely an “access” network on which the “vast majority of traffic . . . is requested by and flows to Comcast residential subscribers,” and arguing that this “guarantees that Comcast [traffic] will remain ‘out of balance.’”

While Level 3 keeps asserting this, it never cites evidence to support it. That’s because the evidence shows the opposite. As we have previously explained, and as confirmed by third party sources, **Comcast’s backbone sends as much traffic out as it receives with our peer backbone networks.** See http://www.nanog.org/meetings/nanog47/presentations/Monday/Labovitz_ObserveReport_N47_Mon.pdf. In fact, under our existing arrangement with Level 3, Comcast and Level 3 already have a roughly balanced on-net traffic exchange, which makes Level 3’s claim particularly indefensible.

Level 3 obviously wants to paint Comcast as an “access-only” network in order to try to draw analogies to the legacy telephone network. But the fact is, those analogies simply don’t hold up. The Internet is a vast interconnected network of networks, and in that web, Comcast is as much a “backbone transit” provider as it is an access network. In other words, Comcast – just like Level 3 – not only serves end-user customers (i.e., “eyeballs”), but also provides transit across the Internet to a wide range of commercial customers, including video content providers, Content Delivery Networks, software companies, web hosts, universities, town offices, local schools, smaller MSOs, and others. As a result, the traffic traveling *from* Comcast’s network *to* the networks of our settlement-free peers is roughly in balance with (and sometimes *more than*) the traffic coming *to* our network *from* those peering partners.

Comcast has nearly 40 settlement-free peering agreements, in *all of which* the parties have agreed to abide by each other’s peering policies, which include traffic-balance requirements. Our most recent internal traffic analysis shows that in almost a third of these arrangements, Comcast is *sending* more traffic to the relevant peer than it is receiving (though the exchange is in each case within the bounds of a roughly balanced ratio). This is true even with certain peering partners that are very substantial players on the Internet backbone. With some peers, the balance is tipped in the other

direction. But in almost all cases, the balance, while fluid, does not approach the 5:1 ratio Level 3 insists is “guaranteed” with respect to Comcast or other broadband providers.

At this time, out of the dozens of agreements we have in place, Comcast has only *one* settlement-free peering arrangement where the traffic imbalance has exceeded acceptable levels to the same extent that Level 3 wants to impose on Comcast’s network. And in that case, which arose well before Level 3 made its recent request, we have proceeded in a manner entirely consistent with the peering principles that have guided our discussions with Level 3. We have communicated to that peering partner that this level of traffic imbalance is unacceptable under a settlement-free peering arrangement, and we are working with them to address it. In short, Comcast’s response to Level 3’s proposal reflects the same concerns we have raised with the one other peering partner that has been far out of balance. Comcast’s response is not based on the source or content of Level 3’s traffic or its role as a CDN.

Level 3 wants discrimination – in its favor – in a manner that will undermine the well-settled and successful framework that has governed the exchange of traffic on the Internet, around the globe, for a decade. Instead, we continue to ask that Level 3 work with Comcast to find a reasonable business solution to Level 3’s self-inflicted business problem.

In closing, we note that Level 3 provided the FCC with a public document issued last Friday containing what it calls 19 “FAQs” concerning this dispute. In the attached document, we provide Comcast’s more accurate responses to those FAQs, which we are also making publicly available.

Please let me know if you have further questions.

Sincerely,

/s/ Lynn R. Charytan

Lynn R. Charytan
Vice President, Legal Regulatory Affairs

Attachment

Cc: Jonathan Baker
Paul de Sa
John Flynn
Brad Gillen
Sharon Gillett
Rick Kaplan
Zac Katz
William Lake
Krista Witanowski